

Village of Mukwonago
Notice of Meeting and Agenda

BOARD OF ZONING & APPEALS MEETING
Tuesday, July 20, 2021

Time: **6:30 pm**

Place: **Mukwonago Municipal Building, 440 River Crest Court, Mukwonago, WI 53149**

1. Call to Order

2. Roll Call

3. Approval of Minutes

3.1 Approval of May 27, 2021 minutes.

[20210527 BoardofAppealsMinutesdraft.pdf](#)

4. Public Hearings

All persons interested in making comments about any of the public hearing items will be heard. Formal petitions and written comments regarding any of the public hearing items may be submitted tonight. During the public hearing(s), if you wish to be heard, the Plan Commission asks that you begin by stating your name and address, speak for no more than three minutes and attempt to avoid duplication. Each person speaking at the public hearing must sign the Public Hearing Appearance sign-in sheet before speaking. The sign-in sheet is available on the table located at the back of the room.

4.1 Public Hearing to consider an application for:

1. Variance 18.2 feet to allow a proposed pervious concrete drive to be 1.8 feet from the mapped wetland, pursuant to Section 100-283(f)(1)a of the Village of Mukwonago Municipal Code.

2. Variance 17.5 feet to allow proposed concrete pad to house a dumpster enclosure to be 2.5 feet from the mapped wetland, pursuant to Section 100-283(f)(1)a of the Village of Mukwonago Municipal Code.

[Public Hearing Notice ZBA - Variance - Birchrock -210 McDivitt - MUKV2012215002.pdf](#)

5. New Business

5.1 Consideration and possible action for variance (1) 18.2 feet to allow a proposed pervious concrete drive to be 1.8 feet from the mapped wetland, pursuant to Section 100-283(f)(1)a of the Village of Mukwonago Municipal Code. Birchrock Properties LLC, applicant; 210 McDivitt Ln; Parcel MUKV 2012-215-002.

[Staff Report - ZBA - Variance - 210 McDivitt Ln - MUKV2012215002.pdf](#)

5.2 Consideration and possible action for variance (2) 17.5 feet to allow a proposed concrete pad to house a dumpster enclosure to be 2.5 feet from the mapped wetland, pursuant to Section 100-283(f)(1)a of the Village of Mukwonago Municipal Code. Birchrock Properties LLC, applicant; 210 McDivitt Ln; Parcel MUKV 2012-215-002.

6. Adjourn

Membership

Jack Dexter, Don Fischer, Dave Mades, Chris Tarr, Sarah Szejn, Advisory Member: Tim Rutenbeck

It is possible that a quorum of, members of other governmental bodies of the municipality may be in attendance at the above stated meeting to gather information. No action will be taken by any governmental body at the above stated meeting other than the governmental body specifically referred to above in this notice. Please note, upon reasonable notice, efforts will be made to accommodate the needs of individuals with disabilities through appropriate aids and services. For additional information or to request this service, contact the Municipal Clerk's Office, (262) 363-6420.

MINUTES OF THE REGULAR BOARD OF BUILDING AND ZONING APPEALS MEETING

Thursday May 27, 2021

Call to Order

Deputy Clerk Gourdoux called the meeting to order at 6:31 p.m. located in the Board Room of the Mukwonago Municipal Building, 440 River Crest Ct.

Roll Call

Members Present: Chris Tarr
Dave Mades
Don Fischer
Jack Dexter

Members Excused: Sarah Szejn

Also present: John Fellows, Village Planner
Linda Gourdoux, Deputy Clerk/Treasurer

Election of Chairman

Deputy Clerk Gourdoux requested a Motion be made to name a Chairperson.
Motion by Fisher/Mades to name Member Tarr as Chairperson, carried

Minutes

Motion by Mades/Dexter to approve the minutes from the Training and Regular Board of Building and Zoning Appeals Meeting from April 29, 2021, carried (3-Yes; 1-Abstain).

Public Hearing

Public Hearing to consider an application for Variance requested by Birchrock Properties, LLC applicant; for the property located at 210 McDivitt Lane; Parcel MUKV 2012-215-002.

Public Hearing opened at 6:33 pm

No public comments

Public hearing closed at 6.34 pm.

New Business

Consideration and possible action for variance of 9 feet to allow a proposed building addition to be 11 feet from the mapped wetland, instead of the required 20-foot setback from a mapped and delineated wetland, pursuant to Section 100-283 (f) (1) a. of the Village of Mukwonago Municipal Code. BIRCHROCK PROPERTIES, LLC, applicant; 210 McDivitt Lane; Parcel MUKV 2012-215-002.

Fellows gave overview of project.

Keifer, property owner, gave overview of project.

Motion by Dexter/Mades to Grant the Variance of 9 feet to allow a proposed building

addition to be 11 feet from the mapped wetland, instead of the required 20-foot setback from a mapped and delineated wetland, pursuant to Section 100-283 (f) (1) a. of the Village of Mukwonago Municipal Code, carried, with the following reasons for granting the variance:

1. No Use Variance, only Dimensional Variance.
2. Life Safety issues with senior residents.
3. Adjacent properties are not impaired.
4. Adjacent properties are not impaired.
5. No one spoke against.
6. No additional requirements due to run-off water or drainage issues.

Additional condition for granting the variance:

1. Variance will expire within six (6) months unless substantial work is commenced to follow through on the right that is granted.

Adjournment

Meeting adjourned at 7:10 p.m.

Respectfully submitted,

Linda Gourdoux
Deputy Clerk/Treasurer

**NOTICE OF PUBLIC HEARING BEFORE THE VILLAGE OF MUKWONAGO
BOARD OF BUILDING AND ZONING APPEALS TO CONSIDER AN APPLICATION FOR
VARIANCE REQUESTED BY BIRCHROCK PROPERTIES, LLC FOR THE PROPERTY
LOCATED AT 210 McDivitt Lane**

Please take notice that there will be a public hearing before the Board of Building and Zoning Appeals of the Village of Mukwonago in the Board Room of the Village Hall, 440 River Crest Court, Mukwonago, Waukesha and Walworth Counties, on June 24, 2021, commencing at 6:30 p.m., to consider the following matter(s):

PUBLIC HEARING: **Variance to Section 100-283 (f)(1)a. of the Municipal Code of the Village of Mukwonago**

TAX KEY/ADDRESS: MUKV2012215002, 210 McDivitt Lane

LEGAL DESCRIPTION: LOT 2 of CSM 7901 being a part of the NW¼ of the SE ¼ of Sec 35, Twn 5 N, Rge 18 E, Village of Mukwonago, Waukesha County, WI.

OWNER/APPLICANT: Birchrock Properties, LLC

MATTER: Applicant seeks variance (a) 18.2 feet to allow a proposed pervious concrete drive to be 1.8 feet from the mapped wetland, pursuant to Section 100-283(f)(1)a. of the Village of Mukwonago Municipal Code.

 Applicant seeks variance (b) 17.5 feet to allow a proposed concrete pad to house a dumpster enclosure to be 2.5 feet from the mapped wetland, pursuant to Section 100-283(f)(1)a. of the Village of Mukwonago Municipal Code.

At this time all interested persons will be afforded a hearing. Information regarding the above noticed hearing(s) may be obtained in the Clerk's Office.

The meeting/public hearing may be held online via Zoom if so information will be indicated on the meeting agenda.

The proposal may be viewed at Village Hall, 440 River Crest Court, Mukwonago, WI during business hours, or by contacting the John Fellows, AICP, Village Planner at (262) 363-6420 x. 2111, or at planner@villageofmukwonago.com.

All interested parties will be heard. Written comments will be accepted up to the time of the hearing. For more information, please contact the village planner at (262) 363-6420 x. 2111, or at jfellows@villageofmukwonago.com.

Diana Dykstra,
Village Clerk
Pub: June 3rd 2021 and June 10th 2021.



Zoning Board of Appeals

July 20, 2021 at 6:30pm

Mukwonago, WI

Variance

210 McDivitt Lane

Parcel Number: MUKV2012-215-002

Case Summary

Parcel Data

Proposal:	<ol style="list-style-type: none">1. Applicant seeks variance (a) 18.2 feet to allow a proposed pervious concrete drive to be 1.8 feet from the mapped wetland, pursuant to Section 100-283(f)(1)a. of the Village of Mukwonago Municipal Code.2. Applicant seeks variance (b) 17.5 feet to allow a proposed concrete pad to house a dumpster enclosure to be 2.5 feet from the mapped wetland, pursuant to Section 100-283(f)(1)a. of the Village of Mukwonago Municipal Code.
Applicant:	BIRCHROCK PROPERTIES, LLC
Request:	Variance

Parcel Characteristics / Conditions

Acreage:	2.3397 AC
Current Use:	CBRF
Proposed Use:	CBRF
Reason for Request:	New Construction
Land Use Classification:	Medium Density Multi Family Residential – 10 Units / ac
Zoning Classification:	R-10 Multi Family District
Census Tract:	2039.01

Public Notice

Public Notices have been published on 06-03-2021 and 06-10-2021, as well as mailed to properties within 250 feet of the subject parcel.

Variance Request

Background:

On January 3, 2020, the applicant received two variances for there project. In March of 2020, the community and nation began a lock down process related to the COVID-19 Pandemic. The applicant decided to place his project on hold like many in the development community. Variances are essentially expired within 6 months if some sort of or grading or building permit is not issued by the Village. The applicant has determined that they would like to move forward with the project, however, to do so the applicant must receive a new variance for the following. The applicant did receive a variance in May of 2021 which was a modification to a prior variance. The requested variances before the board at this time are identical to those approved in January of 2020.

Request 1:

1. Applicant seeks variance (a) 18.2 feet to allow a proposed pervious concrete drive to be 1.8 feet from the mapped wetland, pursuant to Section 100-283(f)(1)a. of the Village of Mukwonago Municipal Code.

Request 2.

Applicant seeks variance (b) 17.5 feet to allow a proposed concrete pad to house a dumpster enclosure to be 2.5 feet from the mapped wetland, pursuant to Section 100-283(f)(1)a. of the Village of Mukwonago Municipal Code.

Ordinance

§ 100-283 Shoreland protection overlay district and floodplain/wetlands setback zoning standards.

(f) The building location within the shoreland protection overlay district.

(1) Principal building location:

a. All principal building shall be located at a minimum distance of 50 feet from the ordinary high water mark or a minimum of 20 feet from a mapped floodplain or identified wetland boundary, which ever distance is greater from the ordinary high water mark. In addition, any principal building shall be located at least two feet above the floodplain elevation. The Village plan commission may increase the minimum distance from the principal building from a mapped floodplain or identified wetland due to the size or use intensity of the building, the need to further buffer a

sensitive environmental area or the need to provide an increased area for stormwater runoff and water quality from the principal building.

§ 100-808 Findings.

[Ord. No. 700, § VI, 1-21-2003]

(a) Except for conditional use permits, no variance to the provisions of this chapter shall be granted by the board of zoning and building appeals unless it finds beyond a reasonable doubt that all the following facts and conditions exist and indicates such in the minutes of its proceedings:

(1) Preservation of intent: No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated permitted use, accessory use or conditional use in that particular district.

(2) Exceptional circumstances: There must be exceptional, extraordinary or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties or uses in the same district, and the granting of the variance should not be of so general or recurrent nature as to suggest that this chapter should be changed.

(3) Economic hardship and self-imposed hardship not grounds for variance: No variance shall be granted solely on the basis of economic gain or loss. Self imposed hardships shall not be considered as grounds for the granting of a variance.

(4) Preservation of property rights: The variance must be necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.

(5) Absence of detriment: No variance shall be granted that will create substantial detriment to adjacent property or that will materially impair or be contrary to the purpose and spirit of this chapter or the public interest.

(6) Additional requirements: Additional requirements in the floodplain/shoreland-wetland zoning district shall be as set forth in Division 7 of Article II of this chapter.

Attachments

1. Application
2. Minutes from January 2020.

MINUTES OF THE REGULAR BOARD OF BUILDING AND ZONING APPEALS MEETING

Thursday January 30, 2020

Call to Order

Member Chris Tarr called the meeting to order at 6:30 p.m. located in the Board Room of the Mukwonago Municipal Building, 440 River Crest Ct.

Roll Call

Members Present: Sarah Szejn
Dave Mades
Chris Tarr
Don Fischer
Jack Dexter

Also present: Ben Kohout, Village Planner
Robert Harley, Supervisor of Inspections
Linda Gourdoux, Deputy Clerk/Treasurer

Declaration of quorum and public notice

Member Tarr stated a Quorum was present and Public Notice was done

Election of Chairman

Member Tarr requested a Motion be made to name a Chairperson.
Motion by Szejn/Fischer to name Member Tarr as Chairperson, carried

Minutes

Member Szejn amended the minutes to include under item 10: Dam was rebuilt in 2011-2012.
Motion by Szejn/Mades to approve the amended minutes from the Regular Board of Building and Zoning Appeals Meeting from April 27, 2017, carried.

Public Hearing

Birchrock Properties, LLC seeks three (3) separate variances for (a) 18.2 feet to allow a proposed pervious concrete drive to be 1.8 feet from the mapped wetland; (b) a variance of 17.5 feet to allow a proposed concrete pad to house a dumpster enclosure to be 2.5 feet from the mapped wetland; and (c) a variance of 6.7 feet to allow a proposed building addition to be 13.3 feet from the mapped wetland, instead of the required 20-foot setback from a mapped and delineated wetland, pursuant to Section 100-283(f)(1)a. of the Village of Mukwonago Municipal Code.

Public Hearing opened at 6:33 pm, hearing no further comments

Public hearing closed at 6.33 pm

New Business

Member Szejn recused

Birchrock Properties, LLC; 210 McDivitt Ln; Parcel MUKV 2012-215-002

Birchrock Properties, LLC seeks variance (a) 18.2 feet to allow a proposed pervious concrete drive to be 1.8 feet from the mapped wetland

Motion by Tarr/Fischer to Grant the Variance of 18.2 feet to allow a proposed pervious concrete drive to be 1.8 feet from the mapped wetland, carried (4-0), with the reasons for granting the variance of:

1. Fire Department requested access to back side of the building for emergency access. Chair Tarr restated that this access was for life safety purposes only
2. No public against

Birchrock Properties, LLC seeks variance (b) 17.5 feet to allow a proposed concrete pad to house a dumpster enclosure to be 2.5 feet from the mapped wetland

Motion by Tarr/Dexter to Grant the Variance of 17.5 feet to allow a proposed concrete pad to house a dumpster enclosure to be 2.5 feet from the mapped wetland, carried (4-0), with the following reasons for granting the variance of:

1. Fire Department requested access to back side of the building for emergency access. Pad for dumpster would allow emergency access.
2. No public against

Birchrock Properties, LLC seeks variance (c) a variance of 6.7 feet to allow a proposed building addition to be 13.3 feet from the mapped wetland, instead of the required 20-foot setback from a mapped and delineated wetland, pursuant to Section 100-283(f)(1)a. of the Village of Mukwonago Municipal Code

Motion by Tarr/Fischer to Grant a variance of 6.7 feet to allow a proposed building addition to be 13.3 feet from the mapped wetland, instead of the required 20-foot setback from a mapped and delineated wetland, pursuant to Section 100-283(f)(1)a of the Village of Mukwonago Municipal Code, carried (4-0), with the following reasons for granting the variance of:

1. Life safety for patients and staff with better building accessibility
2. No public against

Adjournment

Meeting adjourned at 7:05 p.m.

Respectfully submitted,

Linda Gourdoux
Deputy Clerk/Treasurer

SHEET NUMBER:

C3.0